

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                                    |   |                         |
|------------------------------------|---|-------------------------|
| UNITED STATES OF AMERICA,          | ) |                         |
|                                    | ) |                         |
| Plaintiff,                         | ) |                         |
|                                    | ) | Civil No. 8:13-cv-00298 |
| v.                                 | ) |                         |
|                                    | ) |                         |
| KIMBERLE R. GIBBONS, JOSEPH BOLIN, | ) |                         |
| and SARPY COUNTY, NEBRASKA         | ) |                         |
|                                    | ) |                         |
| Defendant.                         | ) |                         |

**COMPLAINT**

Plaintiff, the United States, brings this complaint against the above-named defendants: 1) to reduce to judgment the unpaid federal income tax liabilities assessed against Kimberle R. Gibbons; 2) to foreclose its tax liens encumbering certain parcels of real property in Sarpy County, Nebraska, and; 3) to cause those properties to be sold and have the proceeds from the sale distributed to the parties in amounts determined by the Court.

Jurisdiction and Parties

1. This action has been requested and authorized by the Chief Counsel of the Internal Revenue Service and is brought at the direction of a delegate of the Attorney General of the United States. 26 U.S.C. §§ 7401, 7403.

2. This Court has jurisdiction over this case under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402 and 7403.

3. Venue is proper in the District of Nebraska under 28 U.S.C. §§ 1391(a) and 1396.

4. Kimberle R. Gibbons resides in Papillion, Nebraska, within this judicial district.

5. Joseph Bolin resides in Papillion, Nebraska, within this judicial district. Bolin is Kimberle R. Gibbons's spouse.

6. Sarpy County, Nebraska is subject to the jurisdiction of this Court. It is named as a party under 26 U.S.C. § 7403(b) because it may claim an interest in the subject real properties.

Count I

7. The United States repeats the allegations of contained in paragraphs 1 through 6 of this Complaint as if fully and separately stated herein.

8. Kimberle R. Gibbons filed income tax returns for tax years 2002, 2003, 2004 and 2005 but failed to pay the tax owed for each of those years. Gibbons claimed the head of household filing status on her 2002, 2003, 2004 and 2005 federal tax returns, although she was married to Bolin in each of those tax years.

9. On the dates provided below, a delegate of the Secretary of the Treasury timely made assessments against Kimberle R. Gibbons for unpaid federal income taxes and statutory additions to tax as follows.

| Year  | Taxes Assessed | Penalties and Interest Assessed | Amount Owed (as of 9/11/2013) | Date of Assessment |
|-------|----------------|---------------------------------|-------------------------------|--------------------|
| 2002  | \$273,259.00   | \$26,489.14                     | \$549,957.85                  | 11/17/2003         |
| 2003  | \$233,438.00   | \$25,250.53                     | \$436,880.79                  | 2/7/2005           |
| 2004  | \$115,787.00   | \$11,015.13                     | \$193,800.13                  | 11/21/2005         |
| 2005  | \$98,528.00    | \$12,545.51                     | \$169,762.97                  | 12/11/2006         |
| TOTAL |                |                                 | \$1,350,401.74                |                    |

10. A delegate of the Secretary of the Treasury gave timely notice of each assessment described above to Kimberle R. Gibbons and made demands for payment.

11. Kimberle R. Gibbons neglected, failed and refused to pay the assessed income tax liabilities described above, and, therefore remains indebted to the United States for the unpaid balance plus statutory additions and interest accruing since the dates of assessment.

WHEREFORE, the United States respectfully requests the following relief:

a. That the Court enter judgment in favor of the United States and against Kimberle R. Gibbons for unpaid federal income taxes in the amount of \$1,350,401.74, plus statutory additions and interest accruing after September 11, 2013, until paid.

b. That the Court grant the United States such other relief as is just and equitable, including court costs.

#### Count II

12. The United States incorporates by reference the allegations made in paragraphs 1 through 11 of the Complaint.

13. The United States seeks to foreclose federal tax liens encumbering real property located in Sarpy County, Nebraska, with the following legal description:

All of Lots 110, 111, 114 and 115, Child's Estate Acres an Addition to the City of Bellevue, as surveyed, platted and recorded in Sarpy County, Nebraska.

Upon information and belief, the real property is investment property and is not Gibbons's and Bolin's primary residence. The property is titled in the name of Joe Bolin and Kim R. Gibbons Bolin, Husband and Wife.

14. Kimberle R. Gibbons acquired the real property described above on or about January 27, 2003. The funds used to acquire the property described above belonged exclusively to Kimberle R. Gibbons. Joseph Bolin provided no monies towards the purchase of the property.

15. Because he did not contribute to the purchase of the real property described above, Joseph Bolin has no interest in the property under Nebraska or federal law. Alternatively, Joseph Bolin holds bare legal title as the alter ego or nominee of Kimberle R. Gibbons.

16. Federal tax liens arose on the date of each assessment described in Count I under 26 U.S.C. §§ 6321 and 6322 and attached to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count.

17. The IRS filed notices of federal tax liens relating to the tax liabilities described in Count I in Sarpy County, Nebraska on April 21, 2006 (for the 2002-2004 tax years) and March 13, 2009 (for the 2005 tax year).

18. The IRS filed a notice of federal tax lien identifying Joseph Bolin as the nominee of Kimberle R. Gibbons relating to Kimberle R. Gibbons's tax liabilities for 2002-2005 on June 20, 2013, in Sarpy County, Nebraska.

19. Defendant Sarpy County, Nebraska assessed *ad valorem* taxes on the subject real property that remain unpaid and thus, may claim an interest in the property.

WHEREFORE, the United States respectfully requests the following relief:

a. That the Court determine and declare that the federal tax liens identified above are valid and attach to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count;

b. That the Court decree that the federal tax liens be foreclosed, that the real property described in this count be sold in a judicial sale, according to law, free and clear of any right, title, lien, claim or interest of any of the defendants, and that the proceeds of the sale be distributed to such parties in such amounts as this Court determines;

c. That the Court grant the United States such other relief as is just and equitable, including court costs.

Count III

20. The United States incorporates by reference the allegations made in paragraphs 1 through 19 of the Complaint.

21. The United States seeks to foreclose federal tax liens encumbering real property located in Sarpy County, Nebraska, with the following legal description:

Out Lot B, in Green Meadows, an Addition to the City of Bellevue, as surveyed, platted, and recorded in Sarpy County, Nebraska.

Upon information and belief, the real property is investment property and is not Gibbons's and Bolin's primary residence. The property is titled in the name of Joe Bolin and Kim Bolin, husband and wife.

22. Kimberle R. Gibbons acquired the real property described above on or about September 30, 2004. The funds used to acquire the property described above belonged exclusively to Kimberle R. Gibbons. Joseph Bolin provided no monies towards the purchase of the property.

23. Because he did not contribute to the purchase of the real property described above, Joseph Bolin has no interest in the property under Nebraska or federal law. Alternatively, Joseph Bolin holds bare legal title as the alter ego or nominee of Kimberle R. Gibbons.

24. Federal tax liens arose on the date of each assessment described in Count I under 26 U.S.C. §§ 6321 and 6322 and attached to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count.

25. The IRS filed notices of federal tax liens relating to the tax liabilities described in Count I in Sarpy County, Nebraska on April 21, 2006 (for the 2002-2004 tax years) and March 13, 2009 (for the 2005 tax year).

26. The IRS filed a notice of federal tax lien identifying Joseph Bolin as the nominee of Kimberle R. Gibbons relating to Kimberle R. Gibbons's tax liabilities for 2002-2005 on June 20, 2013, in Sarpy County, Nebraska.

27. Defendant Sarpy County, Nebraska assessed *ad valorem* taxes on the real property described in this count that remain unpaid and thus, may claim an interest in the property described in this count.

WHEREFORE, the United States respectfully requests the following relief:

a. That the Court determine and declare that the federal tax liens identified above are valid and attach to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count;

b. That the Court decree that the federal tax liens be foreclosed, that the real property described in this count be sold in a judicial sale, according to law, free and clear of any right, title, lien, claim or interest of any of the defendants, and that the proceeds of the sale be distributed to such parties in such amounts as this Court determines;

c. That the Court grant the United States such other relief as is just and equitable, including court costs.

#### Count IV

28. The United States incorporates by reference the allegations made in paragraphs 1 through 27 of the Complaint.

29. The United States seeks to foreclose federal tax liens encumbering real property located in Sarpy County, Nebraska, with the following legal description:

Lots 92A and 93A, in Child Estate Acres a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska

Upon information and belief, the real property is investment property and is not Gibbons's and Bolin's primary residence. The property is titled in the name of Kimberle R. Gibbons-Bolin, a married woman.

30. Kimberle R. Gibbons acquired the real property described above on or about April 22, 2003.

31. Federal tax liens arose on the date of each assessment described in Count I under 26 U.S.C. §§ 6321 and 6322 and attached to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count.

32. The IRS filed notices of federal tax liens relating to the tax liabilities described in Count I in Sarpy County, Nebraska on April 21, 2006 (for the 2002-2004 tax years) and March 13, 2009 (for the 2005 tax year).

33. Defendant Sarpy County, Nebraska assessed *ad valorem* taxes on the real property described in this count that remain unpaid and thus, may claim an interest in the property described in this count.

WHEREFORE, the United States respectfully requests the following relief:

a. That the Court determine and declare that the federal tax liens identified above are valid and attach to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count;

b. That the Court decree that the federal tax liens be foreclosed, that the real property described in this count be sold in a judicial sale, according to law, free and clear of any right,

title, lien, claim or interest of any of the defendants, and that the proceeds of the sale be distributed to such parties in such amounts as this Court determines;

c. That the Court grant the United States such other relief as is just and equitable, including court costs.

Count V

34. The United States incorporates by reference the allegations made in paragraphs 1 through 33 of the Complaint.

35. The United States seeks to foreclose federal tax liens encumbering real property located in Sarpy County, Nebraska, with the following legal description:

Lot 2, of Bohac Addition, all as located in Section 22, T14N, R13E of the 6th P.M. as surveyed, platted and recorded in Sarpy County, Nebraska.

Upon information and belief, the real property is investment property and is not Gibbons's and Bolin's primary residence. The property is titled in the name of Kimberle Gibbons.

36. Kimberle R. Gibbons acquired the real property described above on or about April 5, 2002.

37. Federal tax liens arose on the date of each assessment described in Count I under 26 U.S.C. §§ 6321 and 6322 and attached to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count.

38. The IRS filed notices of federal tax liens relating to the tax liabilities described in Count I in Sarpy County, Nebraska on April 21, 2006 (for the 2002-2004 tax years) and March 13, 2009 (for the 2005 tax year).

39. Defendant Sarpy County, Nebraska assessed *ad valorem* taxes on the real property described in this count that remain unpaid and thus, may claim an interest in the property described in this count.

WHEREFORE, the United States respectfully requests the following relief:

a. That the Court determine and declare that the federal tax liens identified above are valid and attach to all property and rights to property of Kimberle R. Gibbons, including the real property described in this count;

b. That the Court decree that the federal tax liens be foreclosed, that the real property described in this count be sold in a judicial sale, according to law, free and clear of any right, title, lien, claim or interest of any of the defendants, and that the proceeds of the sale be distributed to such parties in such amounts as this Court determines;

c. That the Court grant the United States such other relief as is just and equitable, including court costs.

Dated: September 24, 2013

Respectfully submitted,

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